

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ANTHONY J. BRODZKI,

Plaintiff,

vs.

CITY OF LAS VEGAS,

Defendant.

Case No. 2:11-cv-01953-PMP-GWF

**ORDER AND FINDINGS AND  
RECOMMENDATIONS**

Application to Proceed In Forma  
Pauperis (#1) and Screening of  
Complaint (#1-1)

This matter is before the Court on Plaintiff's Application to Proceed In Forma Pauperis (#1), filed on December 7, 2011. The Court finds that Plaintiff is unable to prepay the filing fee. However, the Court also recommends that the Complaint (#1-1) be dismissed with prejudice as delusional and frivolous.

**I. In Forma Pauperis Application (#1)**

Plaintiff Anthony Brodzki filed this instant action and attached a financial affidavit to his application and complaint as required by 28 U.S.C. § 1915(a). Reviewing Plaintiff's financial affidavit pursuant to 28 U.S.C. § 1915, the Court finds that Plaintiff is unable to pre-pay the filing fee and Plaintiff's request to proceed in forma pauperis (#1) will be granted.

**III. Screening the Amended Complaint**

Upon granting a request to proceed *in forma pauperis*, a court must additionally screen a complaint pursuant to 28 U.S.C. § 1915(e). Specifically, federal courts are given the authority to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). A complaint, or portion thereof, should be dismissed for failure to state a claim upon

1 which relief may be granted “if it appears beyond a doubt that the plaintiff can prove no set of facts in  
2 support of his claims that would entitle him to relief.” *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9<sup>th</sup>  
3 Cir. 1992); *see also Denton v. Hernandez*, 504 U.S. 25, 33 (1992). A complaint may be dismissed as  
4 frivolous if it is premised on a nonexistent legal interest or delusional factual scenario. *Neitzke v.*  
5 *Williams*, 490 U.S. 319, 327–28 (1989). Moreover, “a finding of factual frivolousness is appropriate  
6 when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are  
7 judicially noticeable facts available to contradict them.” *Denton*, 504 U.S. at 33. When a court  
8 dismisses a complaint under § 1915(e), the plaintiff should be given leave to amend the complaint with  
9 directions as to curing its deficiencies, unless it is clear from the face of the complaint that the  
10 deficiencies could not be cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9<sup>th</sup> Cir.  
11 1995).

12 In his Complaint, Plaintiff Anthony Brodzki alleges that he was raped repeatedly as a child in  
13 Chicago by law enforcement personnel. Plaintiff alleges that the City of Las Vegas tortured and water  
14 boarded him using police disorientation equipment. Plaintiff claims Clark County Sheriff Doug  
15 Gillespie started a campaign to remove Plaintiff from his condominium using electronic equipment and  
16 dispatch equipment in police vehicles, which causes sleep deprivation and pain. Plaintiff states that he  
17 was rushed out of Las Vegas over 40 times, and on one occasion the police department told him “is this  
18 what you felt as a kid,” referring to Plaintiff’s allegations that he was raped by police officers as a child.  
19 Plaintiff claims that he cannot live in Nevada because he is an undocumented rape victim and members  
20 of the police department are responsible for his rape. Plaintiff therefore asks for punitive damages in  
21 the amount of \$50 million and asks the Court to impose a restraining order.

22 The Court finds that these statements are fantastic, delusional and irrational and will therefore  
23 recommend that the Complaint be dismissed with prejudice as it is clear from the face of the Complaint  
24 (#1-1) that the deficiencies cannot be cured by amendment.<sup>1</sup> Accordingly,

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27 <sup>1</sup> Plaintiff previously file a complaint with the Court that allege nearly identical facts. *See* Case No. 2:10-cv-02051-  
28 KJD-GWF. The Court issued Report and Recommendation (#5), recommending dismissal with prejudice, which is currently  
pending before the Court.

8 || **RECOMMENDATION**

12 || **NOTICE**

21 DATED this 3rd day of January, 2012.

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GEORGE FOLEY, JR.  
United States Magistrate Judge